



**In The United States Patent and Trademark Office**

Applicant: Tofasco of America, Inc.  
Appl. No.: 09/118,725  
Filing Date: 7/17/1998  
For: Cross-Member Supporter for Foldable Furniture

Our Ref.: USP8486A-TAI  
Patent No.: 5,975,626  
Issued: November 2, 1999

2009 JAN -2 PM 4:29

Date: December 22, 2008

01/07/2009 DALLEN 00000001 502111 5975626

01 FC:1559

130.00 DA

**PETITION TO EXCUSE POSSIBLE ERRORS IN SMALL ENTITY STATUS  
AND  
ACCEPT PAYMENT OF FEES AS A LARGE ENTITY UNDER §37 C.F.R. 1.28(c)**

**RECEIVED**

**JAN 12 2009**

Mail Stop PETITION  
Commissioner for Patents,  
P.O. Box 1450  
Alexandria, VA 22313-1450

**OFFICE OF PETITIONS**

01/06/2009 DALLEN 00000012 5975626

01 FC:1559

1855.00 OP

To Whom It May Concern:

Repln. Ref: 01/06/2009 DALLEN 0011022200  
DAN:502111 Name/Number:5975626  
FC: 9204 \$130.00 CR

Pursuant to 37 C.F.R. §1.27(b)(2), the Patent Owner hereby informs the PTO that the above-identified patent may no longer be eligible for small entity status.

This is a petition under 37 C.F.R. §1.28(c) to excuse possible errors in the inadvertent assertion of small entity status and to accept the payment of fees as a large entity for the above identified patent.

37 C.F.R. §1.28(c) provides a procedure to excuse and remedy potential errors in small entity status. If status as a small entity is established in good faith, and fees as a small entity are paid in good faith, and it is later discovered that such status was established in error, or through error the Office was not notified of a loss of entitlement to small entity status as required by §1.27(g)(2), the error will be excuse upon compliance with the separate submission and itemization requirements of 37 C.F.R. §1.28(c)(1) and (2) and the deficiency payment requirement of paragraph (c)(2) of this section:

(1) Any paper submitted under this paragraph must be limited to the deficiency payment (all fees paid in error), required by paragraph (c)(2) of this section, for one application or one patent; and

(2) The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid.

37 C.F.R. §1.28(c) also states that:

(i) The deficiency owed for each previous fee erroneously paid as small entity is the difference between the current fee amount (for other than small) on the date the deficiency is paid in full and the amount of the previous erroneous (small entity) fee payment. The total deficiency payment owed is the sum of the individual deficiency owed amounts for each fee amount previously erroneously paid as a small entity.

(ii) an itemization of the total deficiency payment is required.

The itemization must include the following information:

(A) Each particular type of fee that was erroneously paid as small entity, (e.g. basic statutory filing fee, two-month extension of time) along with the current fee amount for a non-small entity;

(B) The small entity fee actually paid, and when;

(C) The deficiency owed amount (for each fee erroneously paid); and

(D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(c) of this section.

The Patent Owner recently became aware that prior settlements of patent infringement actions against alleged infringers of the subject patent, some of which contained limited (and sometimes confidential) provisions licensing the infringing parties to continue limited sale of the infringing products, may have created a circumstance where the settling infringers had sufficient employees such that the Patent Owner may be considered a large entity.

Although the Patent Owner does not believe a circumstance exists where it became a large entity, Patent Owner wishes to avoid any controversy or dispute and wished to pay large entity fees for the relevant time periods.

Per 37 C.F.R. §1.28(c)(1) and (2), Patent Owner submits the followings:

(1) This paper is submitted specifically for U.S. Patent No. 5,975,626 and limited to the deficiency payment for that patent, and

(2) Payment of the deficiency amount US\$1,985.00 owed under 37 C.F.R. §1.28(c) is enclosed.

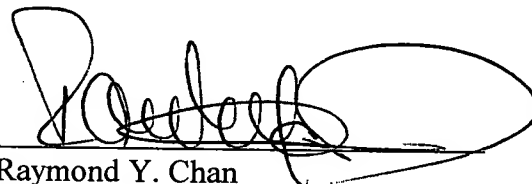
Patent Owner provides the calculation of the deficiency owed according to paragraph (i) and the itemization of deficiency payment according to paragraph (ii)(A)-(D) as follows:

Date of original fee payment	Type of fee paid	Current fee amount as a large entity	Amount originally paid	Amount of the fee deficiency
10/31/2003	4 <sup>th</sup> year maintenance fee	\$980 (Fee Code 1551)	\$455	\$525
10/31/2003	Surcharge	\$65 (Fee Code 1554)	\$130	\$65
7/16/2007	8 <sup>th</sup> year maintenance fee	\$2480 (Fee Code 1552)	\$1150	\$1330
7/16/2007	Surcharge	\$65 (Fee Code 1555)	\$130	\$65
Total Deficiency Payment Owed				\$1985

If the Deciding Official has any questions or concerns, please contact the undersigned at the below-listed telephone number.

A check in the amount of US\$1,985.00 is submitted herewith for the total deficiency payment owed as listed above. This amount is believed to be correct, however, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 502111.

Respectfully submitted,

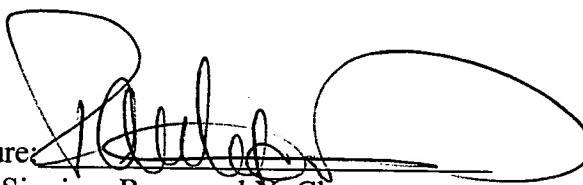


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### CERTIFICATE OF MAILING

I hereby certify that this corresponding will be deposited with the United States Postal Service by First Class Mail, postage prepaid, in an envelope addressed to "MS Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on the date below.

Date: 12/24/2008



Signature: \_\_\_\_\_  
Person Signing: Raymond Y. Chan